



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 23, 2007

MEMORANDUM

To: Robert W. Biersack
Press Officer

Through: Margarita Maisonet *MM*
Chief Compliance Officer

From: Joseph F. Stoltz *JFS*
Assistant Staff Director
Audit Division

Subject: Public Issuance of the Audit Report on Bill Spadea for Congress

Attached please find a copy of the audit report on Bill Spadea for Congress which was approved by the Commission on January 8, 2007.

The report may be released to the public on January 23, 2007.

Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library
Web Manager



Report of the Audit Division on Bill Spadea for Congress

August 18, 2003 – December 31, 2004

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Campaign (p. 2)

Bill Spadea for Congress is the principal campaign committee for Bill Spadea, Republican candidate for the U.S. House of Representatives from the state of New Jersey, Twelfth District, and is headquartered in Washington, DC. For more information, see chart on the Campaign Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - From Individuals \$ 250,599
 - From Political Committees 36,133
 - Loans from the Candidate 62,831
 - Other Loans 4,000
 - **Total Receipts** \$ 353,563
- **Disbursements**
 - Operating Expenditures \$ 344,389
 - **Total Disbursements** \$ 344,389

Findings and Recommendations (p. 3)

- Receipt of Contribution that Exceeds the Limit (Finding 1)
- Misstatement of Financial Activity (Finding 2)
- Inadequate Disclosure – Form 3Z-1 (Finding 3)

¹ 2 U.S.C. §438(b).

Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Part II. Overview of Campaign	
Campaign Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Receipt of Contribution that Exceeds the Limit	4
Finding 2. Misstatement of Financial Activity	5
Finding 3. Inadequate Disclosure - Form 3Z-1	7

Part I

Background

Authority for Audit

This report is based on an audit of Bill Spadea for Congress (BSC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions received.
4. The consistency between reported figures and bank records.
5. The completeness of records.
6. Other committee operations necessary to the review.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Bill Spadea for Congress
• Date of Registration	December 24, 2003 ²
• Audit Coverage	August 18, 2003 through December 31, 2004
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	3
• Bank Accounts	3 Checking
Treasurer	
• Treasurer When Audit Was Conducted	Scott Mackenzie
• Treasurer During Period Covered by Audit	Josh Lignana
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting, Recordkeeping Tasks and Other Day-to-Day Operations	Volunteer

Overview of Financial Activity (Audited Amounts)

Cash on hand @ August 18, 2003	\$ 0
Receipts	
○ From Individuals	\$ 250,599
○ From Political Committees	36,133
○ Loans from the Candidate	62,831
○ Other Loans	4,000
○ Total Receipts	\$ 353,563
Disbursements	
○ Operating Expenditures	\$ 344,389
○ Total Disbursements	\$ 344,389
Cash on hand @ December 31, 2004	\$ 9,174

² It appears the Candidate was testing the waters and registered timely.

Part III

Summaries

Findings and Recommendations

Finding 1. Receipt of Contribution that Exceeds the Limit

BSC received a contribution from a political action committee which exceeded the limit by \$3,000. In response to the interim audit report recommendation, BSC refunded the excessive amount and provided a copy of the negotiated refund check. (For more detail, see page 4.)

Finding 2. Misstatement of Financial Activity

A comparison of BSC's reported figures to its bank records revealed that receipts and disbursements had been materially misstated for calendar year 2003 as well as the ending cash balance for calendar year 2004. In response to the interim audit report, BSC filed amended disclosure reports to correct the misstatements. (For more detail, see page 5.)

Finding 3. Inadequate Disclosure – Form 3Z-1

BSC failed to file Form 3Z-1 (Consolidated Report of Gross Receipts for Authorized Committees) with its 2003 Year End Report. In response to the interim audit report, BSC stated the treasurer at the time was preparing his first report and there was some confusion as to whether the form needed to be filed. (For more detail, see page 7.)

Part IV

Findings and Recommendations

Finding 1. Receipt of Contribution that Exceeds the Limit

Summary

BSC received a contribution from a political action committee which exceeded the limit by \$3,000. In response to the interim audit report recommendation, BSC refunded the excessive amount and provided a copy of the negotiated refund check.

Legal Standard

A. Authorized Committee Limits: An authorized committee may not receive more than a total of \$2,000 per election from any one person or \$5,000 per election from a multicandidate political committee. 2 U.S.C. §441a(a)(1)(A), (2)(A) and (f); 11 CFR §§110.1(a) and (b) and 110.9(a).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal;
 - Include this explanation on schedule A if the contribution has to be itemized before its legality is established;
 - Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in Commission regulations (see below for explanations of redesignation); and
 - If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

C. Redesignation of Excessive Contributions. When an authorized candidate committee receives an excessive contribution (or a contribution that exceeds the committee's net debts outstanding), the committee may ask the contributor to redesignate the excess portion of the contribution for use in another election. The committee must inform the contributor that:

1. The redesignation must be signed by the contributor;
2. The redesignation must be received by the committee within 60 days after the committee received the original contribution; and
3. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(b)(5).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper redesignation or refund the excessive portion to the donor. 11 CFR

§§103.3(b)(3) and 110.1(b)(5)(ii)(A). Further, a political committee must retain written records concerning the redesignation in order for it to be effective. 11 CFR §110.1(l)(5).

Facts and Analysis

Prior to the primary election, BSC received a \$5,000 contribution from a political action committee that exceeded the \$2,000 limitation for a non-multicandidate committee by \$3,000. A copy of the check, dated June 4, 2004, carried a primary election designation; no other supporting documentation was made available. In addition, no written redesignation was located in BSC's files.

At the exit conference, the Audit staff discussed the matter with the BSC representative. The representative stated that BSC would make the refund.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that BSC:

- Provide evidence that the identified contribution was not excessive; or,
- Refund \$3,000 and provide evidence of such refund (copy of the front and back of the negotiated check); or
- If funds were not available to make the necessary refund, BSC should report the amount to be refunded as debt on Schedule D (Debts and Obligations Excluding Loans) until funds became available to make the refund.

In its response to the interim audit report, BSC stated that, in accepting the contribution, it did not realize that the contributing committee had not yet qualified for multi-candidate status. In addition, BSC refunded the excessive amount and provided a copy of the negotiated refund check.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of BSC's reported figures to its bank records revealed that receipts and disbursements had been materially misstated for calendar year 2003 as well as the ending cash balance for calendar year 2004. In response to the interim audit report, BSC filed amended disclosure reports to correct the misstatements.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
 - The total amount of receipts for the reporting period and for the election cycle;
 - The total amount of disbursements for the reporting period and for the election cycle;
 - and
 - Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements).
- 2 U.S.C. §434(b)(1), (2), (3) and (4).

Facts and Analysis

The Audit staff reconciled reported activity to bank records for calendar years 2003 and 2004. The following chart outlines the discrepancies for receipts and disbursements for 2003. Succeeding paragraphs address the reasons for the misstatements for both 2003 and 2004.

2003 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ August 18, 2003	\$ 0	\$ 0	\$ 0
Receipts	\$ 26,856	\$ 30,327	\$ 3,471 Understated
Disbursements	\$ 6,555	\$ 10,026	\$ 3,471 Understated
Ending Cash Balance @ December 31, 2003	\$ 20,301	\$ 20,301	\$ 0

For 2003, the misstated activity for both receipts and disbursements resulted from campaign expenses totaling \$3,473 that were paid by the Candidate using his personal credit cards, checks and cash but were not reported. On its 2004 April 15 Quarterly Report, BSC disclosed a loan from the Candidate for \$3,473. In addition, documentation provided by BSC indicated these transactions were an in-kind loan from the Candidate and should have been disclosed on Schedule A (Itemized Receipts), Schedule B (Itemized Disbursements) and Schedule C (Loan Information).

For 2004, the ending cash balance was reported to be \$6,708; the Audit staff determined it should be \$9,174. The \$2,466 understatement of the ending cash balance on December 31, 2004, was the result of not reporting four contributions from political committees totaling \$2,400 and an unidentified understatement of \$66.

At the exit conference, the Audit staff explained the misstatements and provided BSC's representative with schedules detailing these discrepancies. The representative stated that BSC would amend its reports accordingly.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that BSC amend its reports to correct the misstatements noted above and that the most recent report should be amended to show the adjusted ending cash balance with an explanation that it resulted from audit adjustments from a prior period.

In response to the interim audit report, BSC filed amended disclosure reports to correct the misstatements and corrected cash balances on all reports filed during 2005.

Finding 3. Inadequate Disclosure – Form 3Z-1

Summary

BSC failed to file Form 3Z-1 (Consolidated Report of Gross Receipts for Authorized Committees) with its 2003 Year End Report. In response to the interim audit report, BSC stated the treasurer at the time was preparing his first report and there was some confusion as to whether the form needed to be filed.

Legal Standard

Special Reporting Requirements. Principal campaign committees of candidates for the U.S. House and the U.S. Senate must file FEC Form 3Z-1 as part of their July Quarterly and Year End Reports in the year preceding the year in which the general election for the office sought is held. The information in this form allows opposing candidates to compute their “gross receipts advantage” used to determine whether a candidate is entitled to an increased contribution limit.

The following information must be disclosed:

1. Gross receipts to date for the primary and general elections,
2. Aggregate amount of contributions from personal funds of the candidate for the primary and general elections, and,
3. A calculation of gross receipts less the candidate’s personal contributions for each election. 11 CFR §104.19.³

Facts and Analysis

The Audit staff reviewed all filings by BSC and noted that it did not provide a Form 3Z-1 with its 2003 Year End Report, as required.

Using the electronic data provided by BSC, the Audit staff determined that gross receipts for the primary election of \$30,329, which included a \$3,473 contribution from the Candidate’s personal funds, should have been disclosed on Form 3Z-1. There were no receipts that had been designated for the general election.

The Audit staff discussed this matter with a BSC representative who indicated that the treasurer did not have previous congressional experience, which may have caused some confusion as to whether this form needed to be filed. The representative indicated that BSC would comply with the Audit staff’s recommendation.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that BSC demonstrate that Form 3Z-1 was correctly filed or provide any comments it may yet have relative to this matter.

In response to the interim audit report, BSC stated the treasurer at the time was preparing his first report and reiterated that there was some confusion as to whether the form needed to be filed.

³ This regulation became effective January 27, 2003; as such, this election cycle is the first where this form was required.